

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CRAIG CUNNINGHAM,

Plaintiff,

v.

MICHAEL MONTES, Tollfreezone.com, Inc.,
Mydataguys.com, LLC, Podmusicgear.com,
Inc., Tollfreezone.com, Inc., dba
Docauditor.com, Tollfreezone.com, Inc., dba
Mobile Trackme, Emailmyvmail.Com, Inc.,
and John and Jane Does 1-10,

Case No. 16-cv-761

Defendants.

**DECLARATION OF MICHAEL MONTES IN SUPPORT
OF MOTION FOR RELEASE OF FROZEN FUNDS AND
IN RESPONSE TO SHOW CAUSE ORDER DATED JULY 19, 2017**

I, Michael Montes, declare pursuant to 28 U.S.C. § 1746, as follows:

1. I do not have a personal bank account. My personal banking is conducted through the Wells Fargo account held by Tollfreezone.com, Inc. The bank statements submitted to the Court by Mr. Cunningham are further evidence of this fact:

- a. The transaction history for the account records payment of \$3,499.99 for my first mortgage to Ocwen Mortgage on 1/13/16. There is a monthly payment for the same amount on 2/11/16.
- b. The transaction history for the account records payment of \$1,564.60 for my home equity line of credit to Wells Fargo on 1/25/16. There is a monthly payment for the same amount on 2/22/16.

- c. The transaction history for the account records payment of \$403.64 to Anthem on 1/12/16 and 2/9/16. These are monthly payments for health insurance. These payments have increased in 2017 to \$451.43 per month.
- d. The transaction history records payments of \$439.63 to VW Credit on 1/21/16 and 2/22/16. These payments are for a car loan.
- e. The transaction history records payment of \$374.50 to Geico on 1/25/16 and \$373.62 to Geico on 2/23/16. These payments are for automobile insurance. These payments in 2017 are \$484.85 per month.
- f. The transaction history records payment of \$201.26 on 1/12/16 to Southern California Gas; payment of \$82.37 on 2/3/16 to Midwest Natural Utility; payment of \$15.56 on 2/16/16 to St. Croix Electric; payment of \$230.63 on 2/17/16 to San Diego Gas and Electric; payment of \$46.11 on 2/17/16 to Southern California Gas. These are utility payments. My total utility payments are \$850 per month on average throughout the year.
- g. The transaction history records numerous payments and withdrawals for household / daily living expenses: 1/4/16 withdrawal of \$300.00; 1/8/16 withdrawal of \$300.00; 1/20/16 withdrawal of \$300.00; 1/25/16 payment of \$117.35 to Econo Foods; 2/8/16 withdrawal of \$300.00; 2/8/16 payment of \$90.89 to Econo Foods; 2/10/16 withdrawal of \$100.00; 2/12/16 withdrawal of \$300.00; 2/16/16 withdrawal of \$300.00; 2/18/16 withdrawal of \$300.00; 2/22/16 withdrawal of \$300.00; 2/22/16 payment to Costco in the amount of \$612.49; 2/26/16 payments to Costco in the amounts of \$88.40 and \$118.31;

2/26/16 withdrawal of \$300.00. My family's personal daily living / household expenses average approximately \$1,900.00 per month.

2. I request the Court permit the withdrawal of the following amount on a monthly basis for personal / household expenses:

\$5,064.59	First and Second Mortgages
\$ 451.43	Health Insurance
\$ 439.63	Car Loan
\$ 484.85	Car Insurance
\$ 850.00	Utility Payments
\$ 1,900.00	Household / Daily Living Expenses
\$ 9,190.50	Total

3. Certain payments that are critical to the running of my business are made through the Wells Fargo account held by Tollfreezone.com, Inc. These payments are as follows:

- a. Cell Phone Service through Verizon Wireless. The Wells Fargo account shows the following payment for cell phone service: 1/20/16 payment to Verizon in the amount of \$566.17. The monthly payment for cell phone service in 2017 is \$560.00.
- b. Lease of the dialer platform. The lease payments are charged to the Capital One Business Card. The Wells Fargo account shows the following payments to Capital One for this lease: 1/4/16 payment of \$500.00; 1/11/16 payment of \$1,001.00; 1/19/16 payment of \$2,000.00; 1/20/16 payment of \$1,000.00; 1/25/16 payment of \$1,000.00; 2/2/16 payment of \$1,500.00; 2/3/16 payment of \$1,500.00; 2/8/16 payment of \$5,000.00; 2/16/16 payment of \$2,000.00;

2/17/16 payment of \$2,500.00; 2/22/16 payment of \$2,000.00. These monthly charges average \$20,000.00 in 2017.

- c. Phone bill. The phone service used by the business is provided by Technologic, Inc. The Wells Fargo account shows the following payments for phone use: 1/8/16 payment of \$1,001.00; 1/11/16 payment of \$1,000.00; 1/14/16 payment of \$1,000.00; 1/15/16 payment of \$1,001.00; 1/20/16 payment of \$1,000.00; 1/21/16 payment of \$1,000.00; 1/22/16 payment of \$1,001.00; 1/26/16 payment of \$1,250.00; 1/28/16 payment of \$1,000.00; 2/2/16 payment of \$1,450.00; 2/4/16 payment of \$750.00; 2/5/16 payment of \$750.00; 2/8/16 payment of \$1,250.00; 2/10/16 payment of \$1,000.00; 2/12/16 payment of \$1,450.00; 2/16/16 payment of \$2,000.00; 2/18/16 payment of \$1,000.00; 2/22/16 payment of \$1,800.00; 2/29/16 payment of \$2,500.00. These charges average \$16,000.00 per month in 2017.
- d. Website. The company's website is provided through GoDaddy.com. The Wells Fargo account shows the following payments for these services: 1/5/16 payment of \$16.94; 1/6/16 payment of \$5.99; 1/7/16 payment of \$8.47; 2/18/16 payment of \$8.47; 2/19/16 payment of \$8.47; 2/22/16 payment of \$15.99; 2/24/16 payment of \$8.47. These charges average \$100.00 per month in 2017.
- e. Wells Fargo bank fees. Wells Fargo charges an account fee of \$100.00 per month.

This business cannot continue to exist without the dialer platform, phone bill, and website payments being made.

4. While the Wells Fargo account statements obtained by Mr. Cunningham show that the Tollfreezone.com generates significant revenue, they also show that the business has significant expenses. I request the Court permit the withdrawal of the following amount on a monthly basis for expenses that are essential to continuing my business operations:

\$ 560.00	Cell Phone Service
\$20,000.00	Lease of Dialer Platform
\$16,000.00	Phone Bill for Business Operations
\$ 100.00	Website Services
\$ 100.00	Bank Fee
\$37,760.00	Total


5. Further, I request the Court make a one-time release of funds in the amount of \$8,000.00 so that I may pay attorney's fees incurred by the attorneys I have retained to represent me in the present litigation and the litigation proceeding in the United States District Court for the Middle District of Tennessee.

6. Finally, I request the Court not order payment of the judgment amount into the Court's registry while the case is on appeal. I simply do not have enough money to make payment of the judgment amount to the Court. I could not make and do not have access to funds to make such a payment.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

Dated July 31, 2017.



7-31-17

Michael Montes